

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

KATHY CRANFORD, et al.,

Plaintiffs,

v.

GARY UNDERHILL, et al.,

Defendants.

03:06-CV-00111-LRH-GWF

ORDER

Presently before the court is defendants, Gary Underhill, Mike Mieras, and the Washoe County School District's (collectively, "Defendants"), Objections (# 38¹) to order of the magistrate judge. No opposition has been filed.

On July 30, 2007, Defendants filed a motion for leave to reopen discovery and a motion to enlarge the dispositive motion deadline (# 26). After a telephonic hearing, Magistrate Judge Foley denied the motions on the ground that the motions were not timely. (August 22, 2007, Order (# 35).)

With certain enumerated exceptions not relevant here, 28 U.S.C. § 636(b)(1) permits a district court judge to designate a magistrate to hear and determine pretrial matters. "A judge of the court may reconsider any pretrial matter under this subparagraph (A) where it has been shown that

¹Refers to the court's docket number.

1 the magistrate's order is clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A).

2 Defendants argue that Magistrate Judge Foley's August 22, 2007, Order (# 35) is clearly
3 erroneous for the following reasons: (1) Defendant's request to extend the dispositive motion
4 deadline was timely; (2) there is no requirement that a motion for summary judgment be identical
5 to motions filed in related cases; and (3) Defendants had "good cause" for seeking additional
6 discovery.

7 Upon considering Defendants' points and authorities, the relevant law, and the record as a
8 whole, the court finds that the magistrate judge's August 22, 2007, Order is clearly erroneous. The
9 magistrate judge denied the motion to extend the deadline to file dispositive motions because it was
10 not timely requested. At the time Defendants' motion was filed, the deadline to file dispositive
11 motions was August 1, 2007. Defendants filed their motion on July 30, 2007. Because Defendants
12 motion was filed two days prior to the deadline to file dispositive motions, the motion was timely
13 and the court will extend this deadline. For purposes of clarification, the court notes that any
14 dispositive motion filed in this case does not need to be identical to any motion filed in one of the
15 related cases.

16 The magistrate judge also denied the motion for leave to reopen discovery on the basis that
17 it was not timely filed and that Defendants have not shown excusable neglect. This court disagrees.
18 Rule 6-1(b) of the Local Rules of Practice for the United States District Court, District of Nevada
19 provides, "[a] request made after the expiration of the specified period shall not be granted unless
20 the moving party, attorney, or other person demonstrates that the failure to act was the result of
21 excusable neglect." LR 6-1. Rule 16(b) of the Federal Rules of Civil Procedure provides that a
22 scheduling order that limits the time to complete discovery shall not be modified except upon a
23 showing of good cause. Fed. R. Civ. P. 16(b).

24 Defendants contend that they did not take the depositions of the plaintiffs in a timely matter
25 because they were considering their response to the settlement demands and counsel did not want
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1 to unduly incur defense fees and associated costs which would be unnecessary if the case could be
2 settled. Although Defendants should have filed their motion prior to the discovery cut-off date,
3 under the circumstances of this case, the court finds that Defendants have shown good cause,
4 pursuant to Federal Rule of Civil Procedure 16(b), to modify the scheduling order and reopen
5 discovery. No prejudice will result to plaintiffs as a result of reopening discovery.

6 IT IS THEREFORE ORDERED that Defendants' Objections (# 38) to order of the
7 magistrate judge are hereby GRANTED. Defendants shall have thirty (30) days from the date of
8 this order to take the depositions of Kathy Cranford, Nicholas Cranford, and Edward Cranford.
9 The deadline to file dispositive motions is hereby extended to January 1, 2008.

10 IT IS SO ORDERED.

11 DATED this 1st day of November, 2007.



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14 LARRY R. HICKS
15 UNITED STATES DISTRICT JUDGE
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